

USING LAW AND HUMAN RIGHTS BASED APPROACHES FOR SOCIAL CHANGE

An independent and evidence-based reflection of the
Baring Foundation's Strengthening Civil Society programme

by Liz Griffin, Hidden Depths Research



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About the Baring Foundation

The Baring Foundation is an independent foundation which protects and advances human rights and promotes inclusion. The Foundation's Strengthening Civil Society programme aims to support civil society organisations to embrace the law and human rights based approaches as effective tools for achieving positive change for individuals and communities.

This independent evaluation was commissioned by the Foundation in 2019 from Liz Griffin of Hidden Depth research, as the SCS programme approaches the five-year mark.

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Background

ABOUT THE PROGRAMME

The Strengthening Civil Society (SCS) programme¹ was launched in 2015 as a collaboration with The Legal Education Foundation and the Esmée Fairbairn Foundation. It was born out of a recognition of the role that the law and human rights based approaches (HRBA) can play in helping the voluntary and community organisations achieve their aims. A review, undertaken for the Foundation in 2015,² highlighted that better use of the law and human rights could strengthen the Voluntary and Community sector (VCS) by:

- enhancing its effectiveness;
- protecting and conveying its independence;
- providing a way to recast and reframe organisational purpose and mission.

At its heart, the review made the case for the voluntary sector to use law and human rights based approaches as tools of social action and change. Though these approaches offer such potential, the review also underlined that few voluntary sector organisations were using them, or even understand how they could help them in delivering against their own social justice aims. Indeed, the voluntary sector has historically been very much divided along the lines of policy/campaigning work and service delivery, with the use of law being a core component of service delivery in the form of frontline advice. There has been little pairing up of the legal voluntary sector and the non-legal voluntary sector.

The SCS programme aimed to support voluntary organisations to:

- understand when, how and where the law or human rights based approaches can be effective tools to tackle directly discrimination and disadvantage and safeguard the freedom of purpose, action and voice of the voluntary sector;
- build sustainable collaborations and partnerships between organisations that leverage existing expertise within the sector to use the law and human rights based approaches;
- develop additional capacity to use the law and human rights based approaches with broader movements for social change;
- translate frontline activity into effective advocacy and policy change; and
- create the evidence based to support new streams of funding for this activity.

ABOUT THIS RESEARCH

In Autumn 2019, the Baring Foundation commissioned Hidden Depths Research to carry out an independent and evidence-based review of the programme. The work involved a desk-based review of programme materials and grantee reports and in-depth interviews with 20 grantees. Interviews were selected to capture learning about building capacity in the VCS to use the law and HRBA and the ways in which the law and HRBA have supported social change.

¹ Previously known as the Strengthening the Voluntary Sector programme.

² Undertaken by Neil Crowther which helped to reshape the SCS programme, cdn.baringfoundation.org.uk/wp-content/uploads/STVS-Working-Paper-1_Background-briefing.pdf.

Part 1

THE CONTEXT AT THE OUTSET OF THE SCS PROGRAMME

There were a number of legal and political challenges that provided the backdrop to the SCS programme at its outset in 2015.

THE SOCIO-POLITICAL CONTEXT AND AUSTERITY MEASURES

The anticipated reduction in legal aid had changed the legal advice sector irrevocably.³ Within a short period of time, the social welfare law environment had contracted by over a third. This has meant that fewer cases are being taken; that advice ‘deserts’ have emerged – as far as regions, not just towns; that social welfare career paths have closed down with huge implications for sector knowledge and future; and that overstretched services have had to find ways of funding advice that was once legally aided. Demand on the VCS overall was also increasing as local authority cuts took hold and services were removed or reduced. VCS services reported that they were increasingly supporting more complex and ‘in crisis’ cases as fewer support services – from both the statutory and VCS sectors – were available for vulnerable people.

SHRINKING SPACE FOR CIVIL SOCIETY

The space for civil society to independently affect change was shrinking dramatically. Government tone and style with civil society had shifted and was notably less open than under the coalition and previous Labour Governments. A Lobbying Act,⁴ was introduced in 2014 which made many in the VCS unsure about the extent of the role they could play in policy discussions. Restrictions on third party interventions and judicial review further limited the VCS’s ability to have a powerful and independent voice. On the one hand, this had a “chilling effect on the use of law by the VCS”.⁵ On the other, it created a context where the use of the law was more vital than ever, given that opportunities for civil society dialogue and engagement with policy makers were increasingly limited.

HOSTILITY TO HUMAN RIGHTS

The value of human rights had been under threat for some of time. The Conservative aim of replacing the Human Rights Act with a British Bill of Rights has been thwarted by circumstance for nearly a decade now but the desire remains, and public debate is largely permissive of it.

³ Legal Aid, Sentencing and Punishment of Offenders Act 2012.

⁴ Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014.

⁵ *Using the Law for Social Change: A Landscape Review*. Prof Lisa Vanhala and Dr Jacqueline Kingham 2018.

Part 2

BUILDING THE LEGAL CAPACITY OF THE VOLUNTARY AND COMMUNITY SECTOR

The programme sought fundamentally to build the capacity of the VCS to use the law and human rights based approaches (HRBA). There are a number of ways to build capacity and the

programme has funded a variety of different capacity-building strategies. This has delivered both achievements and learning which offers direction for future funding.

CAPACITY BUILDING STRATEGIES

1. Supporting the development of new organisations who already see the potential for the use of the law in achieving their social justice objectives

The programme has supported the emergence of new organisations whose strategy is situated in a rights-based approach. Some of the greatest successes here have been sector or issue focussed.

2. Encouraging VCS organisations to adopt a legal focus

This has occurred in large part by structuring the offer of funding around the use of the law but it has also allowed those with an initial interest to grow their understanding of how and where to use the law.

3. Improving networks between the legal and non-legal VCS

There are examples of strengthened relationships between parts of the VCS and the legal community which can be traced back to funding from this programme. Sustaining these networks requires a step change in the organisations involved to reflect legal and HRBA in their strategy and everyday activity.

4. Increasing the awareness of frontline staff of when and where to use the law in their advocacy work

This accounts for a great deal of the portfolio and has been a key feature of the approach of many grantees. As such, the programme has amassed a great deal of learning on the potential and limitations of this (covered below).

5. Developing and sharing legal tools to use as a first line of defence

This approach to building the legal capacity of others has emerged as less effective than some grantees believed it would be. Provision of tools and information doesn't change the way the non-legal VCS works. The most successful efforts here were born out of first developing a deep understanding of the individual organisations intended to use these resources.

6. Enabling frontline legal staff to think about patterns and look for systemic issues

This has been both an expressed feature of some grantees proposals as well as a happy accident of deepening the connections between the legal and non-legal VCS. Indeed, this could be the singular greatest benefit of bringing these two parts of civil society closer together.

ACHIEVEMENTS IN BUILDING LEGAL CAPACITY IN THE VCS

There have been some real achievements in raising legal savvy which has improved the effectiveness of individual organisations and those working to affect change within an issue or sector.

Building capacity through building organisations to use the law

The Foundation has played a vital role in supporting the development of some key new organisations. These have the law and HRBA as their fundamental approach to change. They aren't just legal organisations, but organisations who are using the law to create social change and who have joined the dots between:

- framing their issues in terms of the law and rights (rather than needs);
- enabling front line non-legal organisations to use the law;
- second tier/ hub model, providing a mechanism for the involvement of lawyers when necessary;
- identifying systemic issues and cases that highlight these;
- campaigning alongside grassroots organisations and activists.

“We realised we not only needed to fill a gap, but we could not be as effective if we didn't use the law in addition to other tools for change.”

The Centre for Women's Justice was founded in 2016 with seed support from the Baring Foundation. Its operating model is to bring together specialist lawyers, academics and other experts in the field of violence against women, with those working on the frontline as activists, survivors and service providers to bring strategic law challenges and ensure access to justice for victims of male violence.

The Public Interest Law Centre was set up in 2016, initially as a litigation project of the Lambeth Law Centre who were concerned with defending vulnerable clients experiencing the impact of austerity and the hostile environment policy framework. The Lambeth Law Centre closed, and, with support from the Baring Foundation, the project emerged as a new organisation in its own right. This new organisation now has legal work with grassroots organisations and activists as its core approach.

As a consequence of project specific funding from the Foundation, some organisations have gone on to shift their core approach to change and incorporate the use of the law as their primary way of working. These organisations tend to be those who are focussed on delivering issue-specific social change objectives and who have previously relied on campaigning approaches not rooted in the law. **Inclusion London**, for example, had a background in the law years ago but others had occupied the space and so they shifted away from legal work. Following changes to legal aid funding, a clear gap emerged for legal campaigning on the rights of deaf and disabled people. This context change, along with increasingly seeing legal challenge as a key route to change given the shift in relationships between civil society and government, drove their shift back towards using the law in their work. Project funding provided dedicated capacity which has enabled them to move to an explicitly 'legal campaigning model'. Similarly, **Friends, Families and Travellers** increased their knowledge of the legal framework that they operate in which resulted in a new strategic plan framed around rights. For **Kinship Carers**, transforming their focus by applying a legal lens resulted finally in the kind of change they had been working to bring about for several years. The human rights framing of their ask to give children in kinship care the same access to local authority support as children in care, now drives their core activity.

Established legal VCS organisations have been supported to undertake litigation motivated by social justice goals and expand their reach into issues/sectors as a result. As ever with this sort of work, it's impossible to measure the counterfactual; that is, it isn't possible to know whether this litigation effort would have occurred anyway, given the explicit purpose of organisations like the Public Law Project, for example. However, it is clear that funding from this programme helped to build the capacity of legal organisations to deepen their understanding of an issue or within a sector which has boosted their effectiveness.

Giving advocacy 'teeth'

A key achievement of the programme is supporting advocates – those working at the frontline to help some of the most vulnerable access and navigate services, to use the law to help their clients. Where training has been sufficiently well designed, it has enabled advocates to access entitlements that they had previously struggled to find a way to secure. VCS advocates have reported a new confidence in dealing with staff at statutory services, and most especially when cases are escalated to managers within these. Knowing which legal instruments to refer to, and better still – having some legally drafted template letters to present, can often be enough to change the situation for a client overnight. This approach has been helpful in rapidly advancing a situation for a vulnerable client in crisis, for example, who is about to become destitute or lose benefit income; but it is also useful in preventing a crisis from emerging. Advocates have reported that quoting guidance and framing the ask around rights in dealings with governments bodies can accelerate an application and even reduce the need for specialist legal work later.

“If the LA start to make statements that aren't compatible with their duty, then the advocate is empowered to immediately draw their attention to that. even though you might not have to bring a case, having that knowledge of the law makes you more confident.”

Second tier and sector focussed 'hubs'

The portfolio features grants which intended to build the legal capacity of an organisation and grants which sought to build legal capacity within a sector to affect change on an issue collectively. Whilst the two are not mutually exclusive, the experience of this programme suggests that where there is an issue/sector focus, capacity building can be more impactful.

A major outcome of this funding has been the establishment of 'second tier' roles and networks, or sector level 'hubs'. Several grantees approached capacity building in this way and, where they truly knew the potential for the use of the law within their sector, it delivered wide-scale change. Examples include:

Birthrights which champions respectful maternity care by using human rights as their core approach. They were funded to develop partnerships with organisations working with women to understand more about how factors like mental health and disability impact their experience of maternity care.

Asylum Support Appeals Project which seeks to reduce destitution amongst asylum seekers by protecting their legal rights to food and shelter. They used funding from the Baring Foundation to develop the legal capacity of VCS organisations working with asylum seekers. Working in partnership with a private sector law firm, training has been delivered to these organisations along with supervision and a suite of legal templates.

Anti-trafficking and Labour Exploitation Unit (ATLEU) which provides legal representation to victims of trafficking and labour exploitation. Through building the capacity of anti-trafficking NGOs and community organisations, the project employed targeted legal interventions to ensure victims of trafficking are identified and that those working with them can use the law to help them to receive the support they are entitled to.

Maternity Action which is committed to ending inequality and improving the health and wellbeing of pregnant women, partners and young children. The funding enabled Maternity Action to fulfil a goal of undertaking second tier work with VCS organisations and midwives to build their capacity to use the law and human rights based tools in their work.

The second tier approach acknowledges that frontline VCS organisations cannot (and perhaps shouldn't try to) do legal work themselves. Situating a legal role within a non-legal environment is possible and has been achieved to good effect in some situations before. However, it usually requires either placing a legal professional in a non-legal context on a time-share basis or costly and lengthy training so that VCS staff can have the necessary knowledge and meet regulatory requirements. This is of benefit when legal expertise within a previously non-legal organisation is becoming core. In most scenarios, this isn't desirable, necessary or possible. Second tier advice is able to provide legal direction to frontline staff and also provide specialist legal support in some instances. This has allowed VCS organisations to take on the benefit of some legal direction to their work without needing to dramatically change their organisations' skillset and core work.

Where there have been offers of sector/issue specific support from legal VCS, demand has outstripped expectation and grantees original proposals. This is reflected both in demand for support with case work but also demand to learn more about communicating the law to

authorities. There is clear evidence that some parts of the VCS have been searching for a legal remedy without really knowing where to look or even how to frame their question. On identifying potential legal remedy, they have pounced on it! There has been effective second tier work in mental health, disability, autism, women's rights, maternity, leaving care and asylum support, amongst others.

CHALLENGES AND LESSONS IN BUILDING LEGAL CAPACITY IN THE VCS

Perhaps the greatest, albeit the most obvious lesson, is for those intending to build the capacity of VCS organisations to use the law to have a clear purpose about what the intended outcome of this will be. The programme has supported a great deal of training activity, largely with legal professionals going into non-legal environments with the intention of enabling frontline VCS to apply the law in their work. This has presented a variety of issues but chief amongst them is a lack of clear direction about what will happen afterwards. Will the staff be equipped to use the law? Will they need further and ongoing support? Did the trainers understand enough about the 'world' of these frontline staff to be able to sufficiently tailor the training? Will this new understanding of the law feed broader campaign efforts for change?

In most cases, those who have delivered training will get asked for further help. There are examples of some organisations becoming an accidental second tier hub when this hadn't been the intention. Training on the law can be preventative but equally it can generate legal work. If the organisation seeking to build capacity doesn't wish to be a second tier organisation, in most cases it will need to consider who or what will fill this gap after they have left.

“ Unless you are bringing people together for a purpose I think capacity building is quite difficult. We had a real purpose to work together on a really pressing issue. ”

Whilst the organisation seeking to build the capacity of others might appreciate the potential of using the law and HRBA, the VCS organisations they seek to work with often don't. As such, it can be difficult to train VCS organisations on how they might use the law in their work as they don't see the value of training until they have received it. They are focussed on continuing with their core activities which they believe will help them achieve their objectives and struggle to find time for training on new ways of working. In most cases, even if using the law would help them better achieve their objectives, it doesn't replace their core activity which they are largely struggling to deliver within their resources. Training that was intended to be a day has sometimes been changed to a half day, in order to minimise impact on VCS organisations' activity. This can mean that capacity building intentions are diluted and ultimately the training is less valuable. Relatedly, one-off training is incredibly hard to pitch at the right level. Usually, a mixed team of staff attend, given the need to accommodate the training in a short time frame.

These present with different concerns, abilities and levels of understanding. They also differ in terms of how they can apply the law within their work. Perhaps unsurprisingly, an afternoon with a lawyer doesn't have value for all of them!

The provision of legal resources and tools faces similar issues. There have been examples of good tools being developed and made available, but these haven't been taken up. This is due to either the audience not fully knowing the value of their application or because they haven't spoken adequately to their work.

“ This project is very much about bridging the gap between having a piece of information sitting on your website and having someone in a local service actually using that knowledge to make the change. ”

Capacity building training, therefore, must be bespoke. The best work has known the sector, the issues and the VCS organisations well. It is this understanding that has allowed training to be developed that is specific and relevant and speaks to the needs that frontline VCS face and the objectives they are trying to achieve. Ultimately, capacity building the VCS to use the law must begin with the goal of supporting the work that the VCS does, not giving them new work to do.



Part 3

USING THE LAW AND HUMAN RIGHTS BASED APPROACHES IN CAMPAIGNING AND AS A TOOL OF SOCIAL CHANGE

There are a number of different ways to effectively use the law to deliver social change. Grantees have taken a variety of approaches that reflect their own competencies as well as their view about how change can best be achieved on a specific issue. These include:

- strategic litigation on its own;
- legal action as part of wider campaigning and policy work;
- using a collaborative approach to identify and understand the issues (not just needs).

ACHIEVEMENTS IN LEGAL CAMPAIGNING

The programme has supported activity in all of these areas and civil society has delivered a number of policy and legal challenges as a result (see box overleaf). These are satisfying to note but don't on their own offer any insight into how legally focussed campaigns can be used to maximum effect. Identifying 'successful' policy and litigation work as a result of the programme isn't possible owing to problems in attribution but also because it is impossible to define 'success'. Many well-run and legally focussed campaign efforts that may well have resulted in change were undermined by a Parliamentary focus on Brexit, which dominated much of the SCS programme period. The programme period has also been characterised by political turbulence. This has made policy making agendas uncertain but, on a more practical note, it has forced civil society to constantly build new relationships with those who can speak for their issue in Parliament. This has stalled much policy work, with some civil society actors having to effectively ditch 12 months' work and begin afresh again.

Factors contributing to success

Differences between nation states

There has been some really impactful work in the devolved nations and Scotland particularly, however, this is as much related to the context in these nations as it is ways of working. Adopting the same approaches in England is unlikely to be as effective, nor even possible. The political appetite to develop services through a rights lens and uphold the law in policy design and implementation is hugely unequal across the nations, with Scotland apparently the most permissive. Grantees note that Scotland, and to some extent, Wales, the desire is to advance rights, not just uphold them. In contrast, in England, the political context appears to seek to undermine rights and transform existing legislation.

“We've struggled before to demonstrate that an individual challenge is systemic. Data is important and essential for litigation, it goes hand in hand with casework service.”

Supporting the VCS to look beyond individual cases

Often the offer of capacity building and second tier support was in order to support litigation and campaigning that uses legal arguments. It was a route – and an effective one – to the evidence. Understanding how the law can be used to drive wider and systemic change requires a good understanding and evidence of patterns and issue dynamics. The programme has taken legal professionals into a more focussed environment where they are

EXAMPLES

Litigation by SCS programme grantees

- **Public Law Project** brought a won a case in the High Court which ruled that the process of accessing Personal Independent Payments “blatantly discriminates” against people with disabilities in breach of the Human Rights Act.
- **Inclusion London** have provided support to a number of individual cases including high profile strategic cases which have helped to change the law or government policy. An example is challenging the law on detention of people without mental capacity (Article 5 in the Human Rights Act) in support of People First.
- **Maternity Action** launched a Judicial Review of the policy of charging vulnerable migrant women for NHS maternity care. SCS funding supported the development work that has enabled it.
- The **Centre for Women’s Justice** is pursuing two judicial review cases (the dramatic drop in prosecution of rape cases and use of digital data in rape cases).
- **Clan Childlaw** have used the right to family life to litigate and campaign on sibling contact for children in care. Changes to the system are now reflected in a Bill currently before the Scottish Parliament.

EXAMPLES

Reframing the ‘ask’ as a matter of rights in policy work

- **Just Fair** have had a number of impacts in reflecting international treaties in campaign efforts. For example, framing of a campaign run by Doctors of the World about access to healthcare for undocumented migrants in human rights language. Liberty then supported this campaign and won a court case.
- For **WEN Wales**, pointing to international treaties significantly changed the profile of their campaigning.
- **Birthrights’** research publications and online videos, which situate maternity care in rights frameworks, have had a significant impact on health bodies and other NGOs have used the research to advance their own campaigns.
- For **Kinship Carers**, transforming their focus by applying a legal lens resulted finally in the kind of change they had been working to bring about for several years. The human rights framing of their ask to give children in kinship care the same access to Local Authority support as children in care now drives their core activity.
- **Friends, Families and Travellers** using the UN Convention on the Rights of the Child. Their engagement with the UN on this shone a light on UK government’s failure to meet their obligations.

seeking to use the law to make a difference in a specific area of discrimination. Networks have been built to collectively challenge failures and collate data to build the evidence base. Where this has worked well, it has underpinned legal challenge and provided a better description of systemic issues – that is, what is working where, for whom and why. This has, in turn, supported place based, as well as issue/sector based responses, drawing in local organisations and a more cohesive response. This has strengthened campaign efforts by delivering a weight of understanding and louder voice.

Using rights frameworks and legal arguments to give profile to an issue

Court work isn't necessarily required to make a difference by using the law. Some grantees have found that simply framing the issue as a matter of rights, rather than needs or ideals, is sufficient to influence policy and practice (see left). Of course, this depends on the issue and the context. However, even on matters that are not domestic law and instead point to international treaties, framing the issue in this way has led to better sector-wide response and prompted meaningful policy discussion.

Leadership is able to be both policy conscious and legally savvy

There have been examples of really proactive and smart leadership in this funding programme. Knowing when and where the law will give strength to a campaign and how and when litigation will be of strategic value is a specialist skill-set that cuts across legal and policy expertise. There are also examples of individuals leading the coordination of different skill-sets (often in disparate locations) to work towards a shared aim. The law is a frame for all involved, and litigation is just one part of the total effort. The most effective work has seen a symbiotic relationship between lawyers, advocates and activists on an issue.

CHALLENGES AND LESSONS IN USING THE LAW TO DELIVER SYSTEMIC SOCIAL CHANGE

Contextual challenges

The shifting context since the beginning of the programme has had implications for civil society's use of the law. Firstly, many grantees feel that the ever less collaborative style of government has forced campaigners in civil society to adopt a more overtly adversarial approach. Litigation, or the threat of it, is therefore seen by some campaigners to be the only route to bringing about change. Secondly, some legislation changes, such as to benefits and immigration policy, have meant that the human rights and equalities legislation are now more relied on than ever and offer the last remaining defence. Thirdly, the law has been relied on to defend the function of democracy and challenge arbitrary power. The high-profile legal challenge to the proroguing of parliament has shifted the relationship between lawyers concerned with public interest, transforming some of them into public activists, underlining government's distancing of civil society and bringing socially conscious lawyers closer to those campaigning on social justice issues.

The combination of the shift in this relationship, along with policy changes (many born out of austerity measures) that are thought to be either punitive, discriminatory or both, has brought socially interested lawyers closer to grassroots campaigners and, especially, those campaigning to challenge austerity. Indeed, there has been inadvertently a big theme of using the law to challenge austerity in the SCS programme. This reflects the context, rather than programme design. Local authority cut backs have meant compromised standards and rights in many areas from housing to social care, and national level services (like policing, prosecution and health) have been affected too. The VCS has taken up the law to challenge bad decisions and demand rights. Many frontline

staff have had their consciousness raised by austerity driven policy changes which has taken them beyond a focus on the individual in front of them and 'sharpened' their awareness of systemic issues.

Whilst the use of the law has been in public focus, given media coverage of legal challenges to the process of Brexit, and the use of the law to challenge unpopular policies, the use of the law and HRBA have nevertheless remained an academic abstraction. Populists have been much more effective at relating to local people's needs and concerns than has civil society or socially motivated lawyers. Some grantees feel that the referendum result in 2016 underlined a scepticism about international rights frameworks and protections. Worse still, the Millar case (supported by efforts from a programme grantee), although a victory for legal activists and arguably democracy, is feared to have underlined that the law appears to be the currency of an intellectual elite who do not respect the result of the referendum and ergo, democracy. As such, some feel that the need is greater than ever to reframe rights to fit local contexts. Some grantees did reframe their work to this effect but feel the wider challenge of delivering the message that rights work in the interests of ordinary people remains and now urgently needs to be met.

The importance of a committed core

Grantees sometimes aimed to build wide networks and spent a great deal of energy setting these up. These were often quickly consolidated into a smaller group. These grantees quickly realised that a more focussed and smaller network would be both more manageable and more effective. Large networks can be difficult and resource intensive to service and delivered relatively little return.

The law and HRBA isn't always what will progress an issue

Although the goal of the programme is to advance the use of the law and rights in the VCS, it's important to remember that legal work or focus alone often can't shift the cultures and attitudes that underpin unfair practice. Cultural and attitudinal barriers to real change aren't just a problem for government policy and statutory services. Some parts of the VCS are also accustomed to and accepting of compromised rights as this is the most pragmatic solution available. Lack of resource, also, has been accepted as justification for statutory services not delivering on rights. There is an unfortunate reality to these attitudes. Even where the VCS has successfully challenged bad decisions, poor service and system design, this doesn't resolve the fundamental budget issues, for example, that local level services face.

“We understand the limit of litigation. We understand that the way the law works is always going to be much more narrow than the demands of a campaign. But, at the same time, you can really inject some strength into a campaign [with the law], because a campaign can have very lofty aspirations and not be very purposeful or directive.”

Capacity building work can limit opportunities for litigation

Some grantees found that work to capacity build the frontline and offer support that can prevent the escalation of complex legal work can unintentionally limit opportunities to deliver systemic change through litigation. There is a tension between capacity building of advocates and the gathering of case evidence for litigation. Some grantees report examples of services being quickly reinstated, and benefit sanctions

hastily reversed, because of the powerful use of the law by recently trained advocates. Trends can be identified but cases are not advanced and even, in a few examples, settled out of court. Instead it is 'resolved'. Whilst this is to the happy satisfaction of the client, it can mean that the cases which can best illustrate systemic issues are not used.

Collaborations with organisations with government commissions

Working with organisations in the VCS who have Government commissions has sometimes been problematic. It can be a great way to understand more about the dynamics of an issue and therefore the potential for legal work to tackle systemic discrimination. The organisation with the Government contract might well be keen for support with case work and using legal remedy to support case resolution. However, it isn't always in their interests to use case evidence to support legal campaigning efforts. Even where they are supportive, there are genuine obstacles to their being seen to adopt any formal challenge.



Conclusions and implications



There is scope to build sector specific and place based work

Deep insight into sectors and areas has revealed the dynamics of system failures and who this impacts most. There is more potential for local response, especially from local community development infrastructure and activists. Getting closer to the ground

isn't just a worthy thing to do! It reflects the evidence that is now being revealed on an issue/ group. Place and sector focus helps lawyers to gather better evidence, and also, helps local activists to use and share the 'rights' message as a tool for empowerment and positive change within communities.



Support continuing second tier work and hubs that can advance 'legal campaigning'

Much of the VCS can't become legally savvy. They are focussed on service delivery and other change approaches. Whilst the law and HRBA have been under-utilised, the goal going

forwards should be to focus and encourage the use of it where there is the greatest scope and opportunity. Second-tier organisations have played a vital role to the VCS successfully using the law. Training up the non-legal VCS has been with an expressed and focussed purpose and with a clear idea of what would follow as a result.



Supporting the relationship between increasing legal capability of VCS and increasing the potential for systemic change

It is an unavoidable (and actually useful) consequence that this work increases demand for specialist legal work. There is a need to link back to legal peers when case work inevitably materialises. Many of those who sought to build the legal capacity of the non-legal VCS reported spikes in requests for specialist legal

work as a result. In most cases, this wasn't factored into their grant. Some grantees were at risk of becoming a legal hub/ second tier organisation when this wasn't their intention. Increasing capacity increases opportunity but also increases demand for specialist case work. Going forwards, grantees will need to reflect and account for this in their capacity building efforts. This again underlines the need for second tier organisations who are properly resourced.



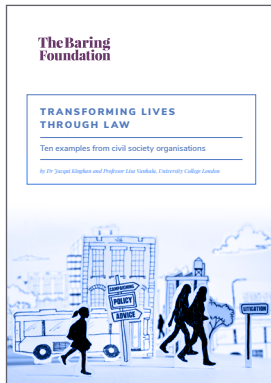
There is a limit to the ambition of supporting organisations to reflect law and HRBA in their strategic plans

There is a need to be realistic about the potential for VCS to shift to a legal outlook in their work and instead foster better links with those for whom legal focus is day to day. The programme has been as much about changing the established legal VCS than it has changing

the non-legal VCS. The programme has funded lots of established legal VCS organisations. These have responded well to the challenge of broadening their reach and value. Many have now made second tier or capacity building part of their future focus and regular activity. Continuation for this new focus is now required and the funding burden falls to a few funders with an interest in this work.

Resources

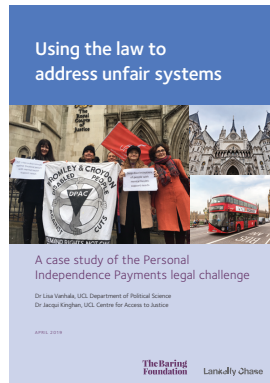
All resources can be found on our website www.baringfoundation.org.uk



Transforming Lives through Law: Ten examples from civil society organisations

Dr Jacqui Kingham
and Professor Lisa
Vanhala, UCL

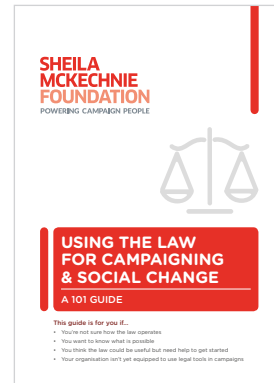
2019



Using the law to address unfair systems: a case study of the Personal Independence Payments legal challenge

Dr Lisa Vanhala and
Dr Jacqui Kingham

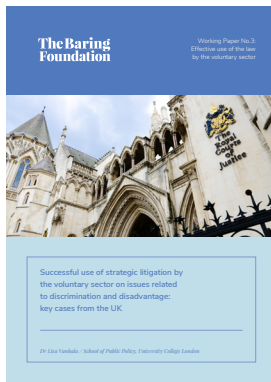
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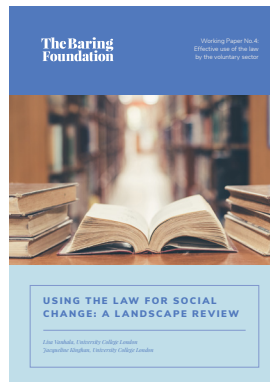
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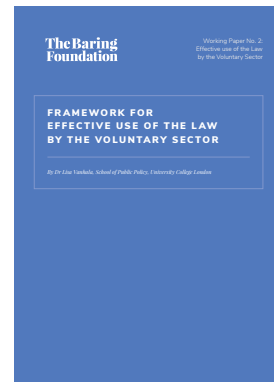
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